

General Information Letter: Nonbusiness gambling winnings other than Illinois Lottery prizes are not allocable to Illinois by nonresidents.

July 11, 2002

Dear:

This is in response to your letter dated June 27, 2002, in which you request a legal opinion. Department of Revenue ("**Department**") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("**PLRs**") and General Information Letters ("**GILs**"). **PLRs** are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A **PLR** is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the **PLR** are correct and complete. **GILs** do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, *2 Ill. Adm. Code Part 1200* regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

The nature of your question and the information provided require that we respond only with a **GIL**.

In your letter you state as follows:

I have a Missouri resident (client) who won a large amount from the Casino Queen in East St. Louis, Illinois, on slot machines. My question is whether he is responsible for paying Illinois individual income taxes on these winnings as a non-resident of Illinois?

In response to your inquiry, please be advised that Section 301 of the Illinois Income Tax Act (**IITA**) sets forth the general rules for allocation of income. Allocation of income for nonresidents of Illinois is governed by Section 301(c). Section 301(c) directs that nonresidents refer to Sections 302, 303 and 304 of the **IITA** concerning the allocation and apportionment of income. **IITA** 302 governs the allocation of compensation income paid to nonresidents. **IITA** 303 and 304 set forth the allocation and apportionment rules respectively for non-business and business income of persons other than residents. For your information, **IITA** Section 303(e) states that Illinois Lottery prizes are allocated to, and hence taxable in, the State of Illinois.

Other types of gambling winnings are not referenced in **IITA** Section 303. Therefore, according to **IITA** Section 301(c)(2)(A), such items of income are not allocated to this state. As a result, gambling winnings payable to nonresidents of Illinois from Illinois riverboats are not subject to Illinois income taxation.

As stated above, this is a **GIL** which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a **PLR** which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of *2 Ill. Adm. Code Part 1200*.

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax